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# A BILL FOR AN ACT

RELATING TO THE SCHOOL FACILITIES AUTHORITY.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. In accordance with section 9 of article VII of  
2 the Hawaii State Constitution and sections 37-91 and 37-93,  
3 Hawaii Revised Statutes, the legislature has determined that the  
4 appropriations contained in H.B. No. 300, H.D. 1, S.D. 1,  
5 C.D. 1, will cause the state general fund expenditure ceiling  
6 for fiscal year 2023-2024 to be exceeded by \$1,063,767,367 or  
7 10 per cent. In addition, the appropriations contained in this  
8 Act will cause the general fund expenditure ceiling for fiscal  
9 year 2023-2024 to be further exceeded by \$200,000,000 or 2 per  
10 cent. The combined total amount of general fund appropriations  
11 contained in only these two Acts will cause the state general  
12 fund expenditure ceiling for fiscal year 2023-2024 to be  
13 exceeded by \$1,263,767,367 or 12 per cent. The reasons for  
14 exceeding the general fund expenditure ceiling are that:

15           (1) The appropriations made in this Act are necessary to  
16           serve the public interest; and



1           (2) The appropriations made in this Act meet the needs  
2                   addressed by this Act.

3           SECTION 2. Section 302A-1701, Hawaii Revised Statutes, is  
4 amended by amending the definition of "project" to read as  
5 follows:

6           ""Project" means the development and construction of new  
7 school facilities, including infrastructure; access and other  
8 support for new school facilities; prekindergarten facilities;  
9 major renovation of school facilities; public-private  
10 partnership projects; new capital improvement projects funded by  
11 the legislature for completion by the authority; acquisition of  
12 real property, personal property, or mixed property for new  
13 school facilities; and planning, development, and leasing of  
14 public school land or facilities to private partners pursuant to  
15 section 302A-1151.1."

16           SECTION 3. Section 302A-1703, Hawaii Revised Statutes, is  
17 amended by amending subsection (c) to read as follows:

18           "(c) Except as otherwise limited by this chapter, the  
19 authority may also:

20           (1) Have a seal and alter the same at its pleasure;



- 1           (2) Subject to subsection (b), make and execute contracts  
2           and all other instruments necessary or convenient for  
3           the exercise of its powers and functions under this  
4           subpart;
- 5           (3) Make and alter bylaws for its organization and  
6           internal management;
- 7           (4) Adopt rules pursuant to chapter 91 with respect to its  
8           projects, operations, properties, and facilities,  
9           including qualifications for persons and entities  
10          wishing to enter into a public-private partnership  
11          with the authority, as permitted in paragraph (7);
- 12          (5) Acquire or contract to acquire by grant or purchase  
13          real, personal, or mixed property or any interest  
14          therein; to clear, improve, and rehabilitate and to  
15          sell, assign, exchange, transfer, convey, lease, or  
16          otherwise dispose of or encumber the same;
- 17          (6) Acquire property by condemnation pursuant to  
18          chapter 101;
- 19          (7) Enter into partnerships with qualified persons,  
20          including public-private partnerships, as defined in  
21          the authority's rules, to acquire, construct,



1 reconstruct, rehabilitate, improve, alter, or provide  
2 for the construction, reconstruction, improvement, or  
3 alteration of any project[+], including  
4 prekindergarten facilities; and sell, assign,  
5 transfer, convey, exchange, lease, or otherwise  
6 dispose of or encumber any project; and in the case of  
7 the sale of any project, accept a purchase money  
8 mortgage in connection therewith;

9 (8) Grant options to purchase any project or to renew any  
10 lease entered into by it in connection with any of its  
11 projects, on terms and conditions as it deems  
12 advisable;

13 (9) Prepare or cause to be prepared plans, specifications,  
14 designs, and estimates of costs for the construction,  
15 reconstruction, rehabilitation, improvement, or  
16 alteration of any project, and from time to time to  
17 modify the plans, specifications, designs, or  
18 estimates;

19 (10) Procure insurance against any loss in connection with  
20 its property and other assets and operations in  
21 amounts and from insurers as it deems desirable;



- 1           (11) Apply for and accept gifts or grants in any form from  
2                   any public agency or from any other source, including  
3                   gifts or grants from private individuals and private  
4                   entities;
- 5           (12) Borrow money or procure loan guarantees from the  
6                   federal government for or in aid of any project the  
7                   authority is authorized to undertake pursuant to this  
8                   chapter. Additionally, in connection with borrowing  
9                   or procurement of loan guarantees, the authority:
- 10                   (A) Shall comply with conditions required by the  
11                           federal government pursuant to applicable  
12                           regulation or required in any contract for  
13                           federal assistance;
- 14                   (B) Shall repay indebtedness incurred pursuant to  
15                           this section, including any interest thereon;
- 16                   (C) May execute loan and security agreements and  
17                           related contracts with the federal government;
- 18                   (D) May issue bonds pledging revenues, assessments,  
19                           or other taxes as security for indebtedness  
20                           incurred pursuant to this section; and



1 (E) May enter into financing agreements as that term  
2 is defined in section 37D-1;

3 (13) Appoint or retain by contract one or more attorneys  
4 who are independent of the attorney general to provide  
5 legal services solely in cases of negotiations in  
6 which the attorney general lacks the sufficient  
7 expertise; provided that the independent attorney  
8 shall consult and work in conjunction with the  
9 designated deputy attorney general;

10 (14) Use the department of human resources development to  
11 recruit, hire, and retain exempt employees,  
12 architects, engineers, existing civil service  
13 positions, and other technical positions for the  
14 development, planning, and construction related to  
15 capital improvement projects; and

16 (15) Do any and all things necessary to carry out its  
17 purposes and exercise the powers given and granted in  
18 this subpart."

19 SECTION 4. Section 302A-1706, Hawaii Revised Statutes, is  
20 amended by amending subsection (c) to read as follows:



1           "(c) The school facilities special fund shall be  
2 administered by the authority and used to fund any school  
3 development, planning, or construction project, including  
4 prekindergarten facilities, within the jurisdiction of the  
5 authority."

6           SECTION 5. Act 257, Session Laws of Hawaii 2022, is  
7 amended to read as follows:

8           "SECTION 1. There is appropriated out of the general  
9 revenues of the State of Hawaii the sum of \$200,000,000 or so  
10 much thereof as may be necessary for fiscal year [~~2022-2023~~]  
11 2023-2024 to be deposited into the school facilities special  
12 fund.

13           SECTION 2. There is appropriated out of the school  
14 facilities special fund the sum of \$200,000,000 or so much  
15 thereof as may be necessary for fiscal year 2023-2024 for the  
16 school facilities authority to expand access to pre-kindergarten  
17 to eligible children of the State. The school facilities  
18 authority may expend the moneys appropriated in this section on:

19           (1) The construction of new school facilities;



1 (2) The renovation, improvement, and expansion of existing  
2 school facilities to increase pre-kindergarten student  
3 capacity; and

4 (3) Any other costs the school facilities authority deems  
5 appropriate to increase pre-kindergarten student  
6 capacity within the State.

7 The sum appropriated shall be expended by the school  
8 facilities authority for the purposes of this Act; provided that  
9 the appropriation authorized by this Act shall not lapse at the  
10 end of the fiscal biennium for which the appropriation is made;  
11 provided further that ~~[all moneys from the appropriation~~  
12 ~~unencumbered as of]~~ the appropriation authorized by this Act  
13 shall lapse on June 30, 2024~~[, shall lapse as of that date].~~

14 SECTION ~~[2.]~~ 3. This Act shall take effect on July 1,  
15 2022."

16 SECTION 6: Statutory material to be repealed is bracketed  
17 and stricken. New statutory material is underscored.

18 SECTION 7. This Act shall take effect on July 1, 2023.





**Report Title:**

School Facilities Authority; DOE; Prekindergarten Facilities;  
Fund Transfers; Expenditure Ceiling

**Description:**

Explicitly includes prekindergarten facilities within the scope of authority of the School Facilities Authority. Transfers \$200,000,000 of general funds previously appropriated to the School Facilities Authority of the Department of Education to the School Facilities Special Fund for FY 2023-2024. Appropriates funds out of the School Facilities Special Fund for the School Facilities Authority to expand access to eligible children for pre-kindergarten. (CD1)

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

